

Internal Revenue Service, Treasury

§ 1.181-1T

under section 180 and paragraph (a) of § 1.180-1. Such election shall be effective only for the taxable year for which the deduction is claimed.

(b) *Revocation.* Once the election is made for any taxable year such election may not be revoked without the consent of the district director for the district in which the taxpayer's return is required to be filed. Such requests for consent shall be in writing and signed by the taxpayer or his authorized representative and shall set forth:

(1) The name and address of the taxpayer;

(2) The taxable year to which the revocation of the election is to apply;

(3) The amount of expenditures paid or incurred during the taxable year, or portions thereof (where applicable), previously taken as a deduction on the return in respect of which the revocation of the election is to be applicable; and

(4) The reasons for the request to revoke the election.

(74 Stat. 1001, 26 U.S.C. 180)

[T.D. 6548, 26 FR 1486, Feb. 22, 1961]

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[T.D. 9312, 72 FR 6159, Feb. 9, 2007]

§ 1.181-1T Deduction for qualified film and television production costs (temporary).

(a) *Deduction*—(1) *In general.* The owner (as defined in paragraph (a)(2) of this section) of any film or television production (as defined in § 1.181-3T(b)) that the owner reasonably expects will be, upon completion, a qualified film or television production (as defined in § 1.181-3T(a)) for which the production costs (as defined in paragraph (a)(3) of this section) will not be in excess of the production cost limit of paragraph (b) of this section may elect to treat all production costs incurred by the owner as an expense that is deductible in the taxable year in which the costs are paid (in the case of a taxpayer who uses

the cash method of accounting) or incurred (in the case of a taxpayer who uses the accrual method of accounting). This deduction is subject to recapture if the owner's expectations prove to be inaccurate. This section provides rules for determining who is the owner of a production, what is a production cost, and the maximum production cost that may be incurred for a production for which an election is made under section 181 of the Internal Revenue Code (Code). Section 1.181-2T provides rules for making the election under section 181. Section 1.181-3T provides definitions and rules concerning qualified film and television productions. Section 1.181-4T provides special rules, including rules for recapture of the deduction. Section 1.181-5T provides examples of the application of §§1.181-1T through 1.181-4T, while §1.181-6T provides the effective date of §§1.181-1T through 1.181-5T.

(2) *Owner.* For purposes of this section and §§1.181-2T through 1.181-6T, the owner of a production is any taxpayer that is required under section 263A to capitalize costs paid or incurred in producing the production into the cost basis of the production, or that would be required to do so if section 263A applied to that taxpayer. A taxpayer that obtains only a limited license or right to exploit a production, or receives an interest or profit participation in a production as compensation for services, generally is not an owner of the production for purposes of this section and §§1.181-2T through 1.181-6T.

(3) *Production costs.* (i) The term *production costs* means all costs paid or incurred by the owner in producing or acquiring a production that are required, absent the provisions of section 181, to be capitalized under section 263A, or that would be required to be capitalized if section 263A applied to the owner. These production costs specifically include, but are not limited to, participations and residuals, compensation paid for services, compensation paid for property rights, non-compensation costs, and costs paid or incurred in connection with obtaining financing for the production (for example, premiums paid or incurred to obtain a completion bond for the production).

(ii) Production costs do not include costs paid or incurred to distribute or exploit a production (including advertising and print costs).

(iii) Production costs do not include the costs to prepare a new release or new broadcast of an existing film or video after the initial release or initial broadcast of the film or video (for instance, the preparation of a DVD release of a theatrically-released film, or the preparation of an edited version of a theatrically-released film for television broadcast). Costs paid or incurred to prepare a new release or a new broadcast of a film or video that has previously been released or broadcast, therefore, are not taken into account for purposes of paragraph (b) of this section, and may not be deducted under this paragraph (a).

(iv) If a production (or any right or interest in a production) is acquired from any person bearing a relationship to the taxpayer described in section 267(b) or section 707(b)(1), and the costs paid or incurred to acquire the production are less than the seller's production cost, the purchaser must treat the seller's production cost as a production cost of the acquired production for purposes of determining whether the aggregate production cost paid or incurred with respect to the production exceeds the applicable production cost limit imposed under paragraphs (b)(1) and (b)(2) of this section. Notwithstanding this paragraph (a)(3)(iv), the taxpayer's deduction under section 181 is limited to the taxpayer's acquisition cost of the production plus any further production costs incurred by the taxpayer.

(v) The provisions of this paragraph (a) apply notwithstanding the provisions of section 167(g)(7)(D).

(b) *Limit on amount of production cost and amount of deduction—(1) In general.* Except as provided under paragraph (b)(2) of this section, the deduction permitted under section 181 does not apply in the case of any production, the production cost of which exceeds \$15,000,000.

(2) *Higher limit for productions in certain areas—(i) In general.* This section is applied by substituting \$20,000,000 for \$15,000,000 in the case of any production the aggregate production cost of which

is significantly incurred in an area eligible for designation as—

(A) A low income community under section 45D; or

(B) A distressed county or isolated area of distress by the Delta Regional Authority established under 7 U.S.C section 2009aa-1.

(ii) *Significantly incurred.* The aggregate production cost of a production is significantly incurred within one or more areas specified in paragraph (b)(2)(i) of this section if—

(A) At least 20 percent of the total production cost incurred in connection with first-unit principal photography for the production is incurred in connection with first-unit principal photography that takes place in such areas; or

(B) At least 50 percent of the total number of days of first-unit principal photography for the production consists of days during which first-unit principal photography takes place in such areas.

(iii) *Animated film and television productions.* For purposes of an animated film or television production, the aggregate production cost of the production is significantly incurred within one or more areas specified in paragraph (b)(2)(i) of this section if—

(A) At least 20 percent of the total production cost incurred in connection with keyframe animation, in-between animation, animation photography, and the recording of voice acting performances for the production is incurred in connection with such activities that take place in such areas; or

(B) At least 50 percent of the total number of days of keyframe animation, in-between animation, animation photography, and the recording of voice acting performances for the production consists of days during which such activities take place in such areas.

(iv) *Productions incorporating both live action and animation.* For purposes of a production incorporating both live action and animation, the aggregate production cost of the production is significantly incurred within one or more areas specified in paragraph (b)(2)(i) of this section if—

(A) At least 20 percent of the total production cost incurred in connection with first-unit principal photography,

keyframe animation, in-between animation, animation photography, and the recording of voice acting performances for the production is incurred in connection with such activities that take place in such areas; or

(B) At least 50 percent of the total number of days of first unit principal photography, keyframe animation, in-between animation, animation photography, and the recording of voice acting performances for the production consists of days during which such activities take place in such areas.

(v) *Records required.* A taxpayer intending to utilize the higher production cost limit under paragraph (b)(2)(i) of this section must maintain records adequate to demonstrate qualification under this paragraph (b)(2).

(c) *No other depreciation or amortization deduction allowed.* (1) Except as provided in paragraph (c)(2) of this section, an owner that elects to deduct production costs under section 181 with respect to a production may not deduct production costs for that production under any provision of the Code other than section 181 unless § 1.181-4T(a) applies to the production. In addition, except as provided in paragraph (c)(2) of this section, an owner that has, in a previous taxable year, deducted any production cost of a production under a provision of the Code other than section 181 is ineligible to make an election with respect to that production under section 181.

(2) An owner may make an election under section 181 despite prior deductions claimed for amortization of the cost of acquiring or developing screenplays, scripts, story outlines, motion picture production rights to books and plays, and other similar properties for purposes of potential future development or production of a production under any provision of the Code if such costs were incurred before the first taxable year in which an election could be made under § 1.181-2T(a). However, the production cost of the production does not include costs that a taxpayer has begun to amortize prior to the time that the production is set for production (for further guidance, see Rev. Proc. 2004-36 (2004-1 CB 1063) and § 601.601(d)(2)(ii)(b) of this chapter).

[T.D. 9312, 72 FR 6159, Feb. 9, 2007]